



## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS–R3–ES–2020–0121; FXES11140300000-212]

### **Draft Environmental Assessment and Proposed Habitat Conservation Plan; Receipt of an Application for an Incidental Take Permit, Bitter Ridge Wind Farm, Jay County, Indiana**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comment and information.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service) have received an application from Scout Clean Energy’s Bitter Ridge Wind Farm, LLC (applicant), for an incidental take permit (ITP) under the Endangered Species Act (ESA), for its Bitter Ridge Wind Farm (project). The applicant requests the ITP, which would be for a 35-year period, for the take of the federally listed endangered Indiana bat and threatened northern long-eared bat incidental to the otherwise lawful activities associated with the Bitter Ridge Wind Farm. The applicant proposes a conservation program to minimize and mitigate for the unavoidable incidental take as described in their Habitat Conservation Plan. The Service requests public comment on the application, which includes the applicant’s proposed HCP, and the Service’s draft environmental assessment, prepared

pursuant to the National Environmental Policy Act (NEPA). The Service provides this notice to seek comments from the public and Federal, Tribal, State and local governments.

**DATES:** We will accept comments received or postmarked on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES: *Document availability:*** Electronic copies of the documents this notice announces, along with public comments received, will be available online in Docket No. FWS–R3–ES–2020–0121 at <http://www.regulations.gov>.

***Comment submission:*** In your comment, please specify whether your comment addresses the proposed HCP, draft EA, or any combination of the aforementioned documents, or other supporting documents. You may submit written comments by one of the following methods:

- *Online:* <http://www.regulations.gov>. Search for and submit comments on Docket No. FWS–R3–ES–2020–0121.
- *By hard copy:* Submit comments by U.S. mail to Public Comments Processing, Attn: Docket No. FWS–R3–ES–2020–0121; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/3W; Falls Church, VA 22041–3803.

**FOR FURTHER INFORMATION CONTACT:** Scott Pruitt, Field Supervisor, Bloomington, Indiana, Ecological Services Field Office, U.S. Fish and Wildlife Service, 620 South Walker Street, Bloomington, IN 47403; telephone: 812–334–4261, extension 214; or Andrew Horton, Regional HCP Coordinator, U.S. Fish and Wildlife Service –

Interior Region 3, 5600 American Blvd., West, Suite 990, Bloomington, MN 55437–1458; telephone: 612–713–5337.

Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

Section 9 of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and its implementing regulations prohibit the “take” of animal species listed as endangered or threatened. Take is defined under the ESA as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect “listed animal species,” or to attempt to engage in such conduct” (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered and threatened species, respectively, are found in the Code of Federal Regulations at 50 CFR 17.22 and 50 CFR 17.32.

### **Applicant's Proposed Project**

The applicant requests a 35-year ITP for take of the federally endangered Indiana bat (*Myotis sodalis*) and threatened northern long-eared bat (*Myotis septentrionalis*). The applicant determined that wind farm activities on this land are reasonably certain to result in incidental take of these federally listed covered species. Activity that could result in incidental take if Indiana bats and northern long eared bats is the operation of 52 wind turbines currently being constructed in Jay County, Indiana, consisting of approximately

22,170 acres of private land. The estimated level of take from the project is 69 Indiana bats and 45 northern long-eared bats over the 35-year project duration.

The proposed conservation strategy in the applicant's proposed HCP is designed to avoid, minimize, and mitigate the impacts of the covered activity on the covered species. The biological goals and objectives are to minimize potential take of Indiana bats and northern long-eared bats through on-site minimization measures and to provide habitat conservation measures for Indiana bats and northern long-eared bats to offset any impacts from operations of the project. On-site minimization measures include feathering turbine blades up to 3.0 meters per second (m/s) during winter and spring (October 16 – May 15), up to 5.0 m/s during fall (August 1 – October 15), and up to 5.0 m/s at 39 turbines with risk and 3.0 m/s at the remaining turbines during summer (May 16 – July 31). Minimization measures will be implemented nightly from ½ hour before sunset to ½ hour after sunrise when the temperature is above 10°C. To offset the impacts of the taking of Indiana bats and northern long-eared bats, the applicant proposes to protect known maternity colony habitat for both covered species and staging/swarming habitat for Indiana bats. The Service requests public comments on the permit application, which includes a proposed HCP, and an EA prepared in accordance with NEPA.

The applicants' HCP describes the activities that will be undertaken to implement forestry activities, as well as the mitigation and minimization measures proposed to address the impacts to the covered species. Pursuant to NEPA, the EA analyzes the impacts the ITP issuance would have on the covered species and the environment.

### **National Environmental Policy Act**

The issuance of an ITP is a Federal action that triggers the need for compliance with NEPA (42 U.S.C. 4321 *et seq.*). We prepared a draft EA that analyzes the environmental impacts on the human environment resulting from three alternatives: A

no-action alternative, the applicant's proposed action, and a more restrictive alternative consisting of feathering at a rate of wind speed that results in less impacts to bats.

### **Next Steps**

The Service will evaluate the permit application and the comments received to determine whether the application meets the requirements of section 10(a) of the ESA. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue the requested ITP to the applicant.

### **Request for Public Comments**

The Service invites comments and suggestions from all interested parties during a 30-day public comment period (see **DATES**). In particular, information and comments regarding the following topics are requested:

1. The direct, indirect, or cumulative effects that implementation of any alternative could have on the human environment;
2. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed; and
3. Any other information pertinent to evaluating the effects of the proposed action on the human environment.

Because this permit application was sufficiently complete prior to the effective date of the new NEPA regulations, we are exercising our discretion to conduct our NEPA analysis under the regulations in effect prior to September 14, 2020.

### **Availability of Public Comments**

You may submit comments by one of the methods shown under **ADDRESSES**.

We will post on <http://regulations.gov> all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time.

While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

#### **Authority**

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6 (2019); 43 CFR part 46).

---

**Lori Nordstrom,**  
*Assistant Regional Director,*  
*Ecological Services.*

[FR Doc. 2021-06402 Filed: 3/26/2021 8:45 am; Publication Date: 3/29/2021]